

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS  
TRIBAL COURT

ISSAC M. STARTUP,

Plaintiff,

Case No. C-060-0705

v.

*Enrollment Appeal Decision*

LITTLE TRAVERSE BAY BANDS OF  
ODAWA INDIANS ENROLLMENT OFFICE,

Defendant.

**DECISION OF THE COURT**

A. Issue Presented:

Whether the Tribe made a clear error denying Plaintiff's application for membership?

B. Background:

Plaintiff completed his application for tribal membership on July 27, 2004. He subsequently submitted additional documentation for consideration with the initial submissions because of the uncertainty regarding the parentage of one of his ancestors.

C. Findings of Fact:

1. Plaintiff applied to become a member of the Tribe in July 2004.
2. The application was denied on January 9, 2005 for the reason that the applicant was deemed to have less than one-quarter (1/4) or more Indian blood quantum as required by tribal law to become an enrolled member of the Tribe.
3. The Tribe's determination was based upon the fact that one of the fathers of Plaintiff's lineal ancestors is listed as "*unknown*" in the official birth records.

4. After the Tribe's determination, Plaintiff submitted additional documentation regarding another person who might be the "unknown" father in support of his attempt to become an enrolled member of the Tribe.
5. The Enrollment Office of the Tribe has concluded that none of the evidence establishes the identity of the person who is the "unknown" father.
6. Plaintiff filed this appeal on July 21, 2005.
7. Plaintiff asks this Court to adopt State of Michigan law regarding the presumption of paternity during a marriage.

D. Conclusions of Law:

1. The beginning point for legal analysis of this appeal is the standard of review applicable to the instant matter.
2. WOTC § 2.114(C) provides *"The sole purpose of the Appeals Process will be to determine if there has been a **clear error** ... based on the evidence and documentation provided by the applicant to the Enrollment Department. The Tribal Court shall only overrule the declination ... if the evidence cannot reasonably be construed to support the action of the Tribal Council."* (Bold added for emphasis).
3. Plaintiff has not demonstrated clear error in the declination of his membership application. The identity of the "unknown" father has not been clearly established by the Plaintiff.
4. This Court has no authority to adopt substantive provisions of law that relate to tribal membership. The Tribal Council has sole authority in that regard limited only by the requirements of the Tribal Constitution.

**WHEREFORE, FOR ALL OF THE FOREGOING,  
this Court denies Plaintiff's appeal and hereby  
dismisses this matter.**

09/30/06  
\_\_\_\_\_  
Date

Honorable Michael Petoskey  
Chief Judge